

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 RICHARD L. PARENTEAU, JR.,

9 Plaintiff,

10 v.

11 JAMES COOPER,

12 Defendant.

CASE NO. C17-1318 JLR-BAT

ORDER TO SHOW CAUSE

13 Richard Parenteau, proceeding *pro se* and *in forma pauperis*, filed a proposed civil rights  
14 complaint under 42 U.S.C. § 1983. Dkt. 1. The complaint alleges Detective James Cooper  
15 “illegally seized” Mr. Parenteau in his residence on July 19, 2014. *Id.* The Court declines to  
16 serve the complaint because it is untimely and fails to state a viable claim for relief under 42  
17 U.S.C. § 1983. However, because Mr. Parenteau proceeds *pro se*, the Court grants him leave to  
18 explain why the complaint should not be dismissed.

19 **DISCUSSION**

20 Actions brought under 42 U.S.C. § 1983 require a plaintiff to show that (1) a state actor  
21 (2) violated his constitutional rights. *Gibson v. United States*, 781 F.2d 1334, 1338 (9th Cir.  
22 1986). However, the facts alleged in Mr. Parenteau’s complaint fail to state a viable claim for  
23 relief under § 1983.

1 First, Mr. Parenteau's claim is barred by the statute of limitations. Any claims arising for  
2 an alleged false arrest are subject to a three year statute of limitations. *Joshua v. Newell*, 871  
3 F.2d 884, 886 (9th Cir.1989) (citing RCW 4.16.080(2)). Under federal law, a claim accrues  
4 "when the plaintiff knows or has reason to know of the injury which is the basis of the action."  
5 *Two Rivers v. Lewis*, 174 F.3d 987, 991 (9th Cir. 1999). Here, Mr. Parenteau alleges that the  
6 incident occurred on July 19, 2014, which is more than three years ago from the date of his  
7 complaint, August 26, 2017. Mr. Parenteau clearly knew about the alleged illegal seizure at the  
8 time it occurred because it involved his own person. Mr. Parenteau is accordingly ordered to  
9 show cause why the complaint should not be dismissed because it is untimely and barred by the  
10 statute of limitations.

11 Second, the Court direct Mr. Parenteau to show why his claims are not barred by *Heck v.*  
12 *Humphrey*, 512 U.S. 477, 486-87 (1994). When a state prisoner brings a § 1983 action for  
13 damages, the Court must consider whether a judgment in favor of the plaintiff would necessarily  
14 imply the invalidity of his conviction, sentence, or confinement. *Id.* at 487-90. "[I]f it would, the  
15 complaint must be dismissed," unless the plaintiff can demonstrate that the conviction or  
16 confinement has already been invalidated, expunged, or otherwise impugned. *Id.* at 487; *see also*  
17 *Butterfield v. Bail*, 120 F.3d 1023, 1024 (9th Cir.1997). Here Mr. Parenteau was apparently  
18 arrested by Detective Cooper and placed in the King County Jail where he remains detained. The  
19 fact that he remains in custody indicates that he has not successfully challenged the criminal  
20 matter that brought him to the jail, and that his claims are therefore barred under *Heck*.

21 Because the complaint appears to be barred by the statute of limitations, and also appears  
22 to be barred by *Heck v. Humphry*, the Court declines to serve the complaint. The Court further  
23 directs Mr. Parenteau to, no later than **September 29, 2017**, explain why his complaint should

1 not be dismissed. The Court will recommend the case be dismissed if no explanation is  
2 submitted, or if the explanation fails to adequately address the defects contained in the  
3 complaint.

4 The Clerk is directed to provide a copy of this order to Mr. Parenteau, and the Honorable  
5 James L. Robart.

6 DATED this 1<sup>st</sup> day of September, 2017.

7  
8   
9 \_\_\_\_\_  
BRIAN A. TSUCHIDA  
United States Magistrate Judge